

April 7, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. L97P0034

BERG'S LANE
Application for Preliminary Plat Approval

Location: Generally between 80th Avenue Northeast and 83rd Avenue Northeast,
across from Northeast 179th Lane

Applicant: Triad Associates
11814 115th Avenue Northeast
Kirkland, WA 98034

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application submitted:	August 27, 1997
Notice of complete application:	September 24, 1997

EXAMINER PROCEEDINGS:

Hearing Opened:	March 31, 1998
Hearing Closed:	March 31, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Drainage
- Tree retention
- Boundary line adjustment

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information.**

Owner/Developer: Steve Holzkecht
P.O. Box 2165
Redmond, WA 98073

Engineer: Triad Associates
11814 - 115th Avenue NE
Kirkland, WA 98034
Phone: (425) 821-8448

STR: 12-26-4

Location: Generally between 80th Avenue NE and 83rd Avenue NE,
across from NE 179th Lane.

Zoning: R8
Acreage: 1.24
Number of Lots: 10
Density: 8 dwelling units/acre
Typical Lot Size: Ranges from approximately 3,440 to 4,695 sq. ft.
Proposed Use: Detached single-family residences
Sewage Disposal: Northshore Water & Sewer District
Water Supply: Northshore Water & Sewer District
Fire District: #16
School District: Northshore
Complete
Application Date: September 24, 1997

- 2. Proposal.** Steven Holzkecht (the Applicant) proposes to develop ten detached single family residential building lots on a property classified R8. This classification authorizes a density of seven dwelling units to eleven dwelling units on this 1.24-acre parcel. Proposed lot sizes range from approximately 3,440 to 4,695 square feet. Copies of the Applicant's preliminary plat drawing are included in this hearing record as Exhibit No. 7 and Attachment 1 of the preliminary

- report to the Hearing Examiner dated March 31, 1998 (Exhibit No. 2).
3. **Environmental Significance.** An environmental impact statement is not required. On January 13, 1998, the Department of Development and Environmental Services (“DDES” or the “Department”) issued a determination of nonsignificance for the proposed development. That is, the Department published its determination that, based on its review of the Applicant’s environmental checklist and other pertinent environmental documents, it has concluded that the proposed development will not cause a probable significant adverse impact upon the environment. This determination was not appealed by any party, tribe or agency.
 4. **Department’s Recommendation.** The Department recommends granting preliminary plat approval to Berg’s Lane subject to the 16 conditions of final plat approval that are stated on pages 6 through 8 or the Department’s March 31, 1998, preliminary report (Exhibit No. 1); EXCEPT, for the following amendments:
 - A. **Boundary line correction deadline.** The Applicant agrees to amend recommended Condition No. 15 in order to make clear that the Applicant’s pending boundary line correction may be recorded, when approved, upon final plat recording.
 - B. **Significant tree retention.** The Department agrees that, due to the language contained in the Significant Trees Special District Overlay (SO-220) and in KCC 21A.06, a perimeter landscape plan and the tree retention standards established for perimeter landscape plans do not apply here. Recommended Condition No. 16.B, therefore, should be amended appropriately. Nonetheless, an approved significant tree inventory and retention plan should be required.
 5. **Applicant’s position.** The Applicant accepts the Department’s recommendation as described in Finding No. 4, above. The Applicant continues to have concerns regarding the appropriateness of requiring a bike lane along 80th Avenue Northeast. However, the Applicant and the Department agree that this is an issue which may be resolved during engineering review and that, further, such a requirement would not affect the section standard for this minor arterial.
 6. **Drainage.** The most significant issue confronting this review has concerned the accommodation of storm water drainage. There are two aspects:
 - A. **Downstream capacity.** A downstream drainage capacity problem exists. To address this downstream flow limitation the Department recommends that the Applicant implement one of two strategies; either “over detain” storm water onsite in sufficient quantity and with appropriate release rate that downstream facilities are not overloaded; or, improve the downstream capacity by replacing an existing inadequate culvert. The Applicant agrees to this requirement. See Recommended Condition No. 8.
 - B. **Neighboring property concerns.** A person speaking on behalf of some neighboring condominium residents (situated on the property abutting the south boundary of the subject property) expresses concern regarding some ponding of storm waters upon the impervious soils which are characteristic of this vicinity. It is important to note that this ponding is due to the imperviousness of underlying soils, not due to “high ground water”.

In order to prevent increased or excessive runoff toward neighboring properties, the Department recommends that the proposed project comply with the drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. These requirements, among other things, require that, “all building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet. . . .” This controlled drainage will be directed to the retention/detention facility designed as indicated in Finding 6.A, preceding, then channeled downstream through approved existing channels and culverts.

7. Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated March 31, 1998 (Exhibit No. 2) are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

CONCLUSIONS:

1. There is no factual evidence in this hearing record which suggests that the drainage controls recommended by the Department will be inadequate. The concerns expressed by a neighboring property owner are appropriate in this climate and with these soils types. However, the evidence shows that the Applicant and the Department have properly met the challenge.
2. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Land Use Services Division, it is concluded that approval of this subdivision as recommended below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.
3. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the Comprehensive Plan, Northshore Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
4. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.
5. The conditions recommended in the Land Use Services Division's Preliminary Report as amended below are in the public interest and are reasonable requirements.

DECISION:

Preliminary plat approval for the proposed plat of Berg's Lane is hereby GRANTED; SUBJECT to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density (and minimum density) of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. If all lots are 35,000 square feet in size or more, or if the subdivision is outside an Urban Growth Area and is developed at a density no greater than one residential building lot per five (5) acres, or a cluster development outside an Urban Growth Area with lots under 35,000 square feet in size and offsetting permanent open space and is developed at a density no greater than one residential building lot per five (5) acres, the subdivision is exempt per KCC 17.08.030.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the application of any

building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

8. The following condition specifically addresses drainage issues for this particular plat:

A downstream drainage capacity problem exists at an existing culvert running west from 80th Avenue NE across the Furmanov property at 17817 80th Avenue NE. See the Level 2 Downstream Analysis received November 14, 1997. The culvert contains an angle point with no structure, and does not have capacity to carry the 25- year storm event. Submit a capacity analysis at engineering plan submittal to determine the culvert capacity per Core Requirement 2 of the King County Surface Water Design Manual. The stormwater design shall demonstrate no aggravation to this problem due to changes in magnitude, frequency or duration per Core Requirement 2. If the capacity problem is aggravated by this development, mitigation may include overdetention onsite or upgrading of the existing culvert per Core Requirement 2.
9. The following road improvements are required with this subdivision to be constructed according to 1993 King County Road Standards:
 - a. NE 179th Place shall be improved to the urban minor access standard. The sidewalk shall be within the right-of-way per Section 2.19(b) KCRS.
 - b. FRONTAGE: The frontage of 80th Avenue NE (east side) shall be improved to the urban minor arterial standard with provision for a bicycle lane. A full-width overlay of the widened frontage may be required per Section 4.01(f) of the King County Road Standards.
 - c. Modifications to the above road conditions may be considered according to the variance procedures in Section 1.08 KCRS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid," if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Ordinance 21A.28, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be

assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

13. The existing house and outbuildings on the site shall be removed or relocated prior to final plat approval.
14. A fee-in-lieu of recreation space shall be paid by the applicant to King County. The amount of the fee shall be determined by the King County Department of Parks and Recreation, consistent with the provisions of KCC 21A.14.185.
15. Prior to submittal of the final plat, the applicant shall submit a boundary line correction to King County for review and approval pursuant to KCC 19.08.113; and, upon final plat recording, also record the necessary deeds, in order to address the encroachment on the north boundary line from a structure on Tax Lot 33.
16. The following conditions shall apply to implement the P-suffix conditions to this property:
 - a. Seasonal Clearing Restrictions (KCC-16.82.150D): Clearing and grading shall not be permitted between October 1 and March 31, unless it can be shown that silt-laden runoff exceeding standards in the King County Surface Water Design Manual will be prevented from leaving the construction site. Certain activities may be exempt from this restriction (e.g., landscaping of single-family residences, emergencies, connection or maintenance of utilities).
 - b. Significant Trees Special District Overlay (SO-220): An approved significant tree inventory and retention plan is required prior to engineering plan approval.

ORDERED this 7th day of April, 1998.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 7th day of April, 1998, to the parties and interested person listed on Attachment A.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before April 21, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the

Clerk of the King County Council **on or before April 28, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MARCH 31, 1998, public hearing on Department of Development and Environmental Services File No. L97P0034 – BERG'S LANE.

R.S.Titus was the Hearing Examiner in this matter. Participating at the hearing were Keri Akers, Bruce Whitaker, Colin Lund, and Diahn McGuire.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L97P0034
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report dated March 16, 1998
- Exhibit No. 3 Application dated August 27, 1997
- Exhibit No. 4 Environmental Checklist dated August 25, 1997
- Exhibit No. 5 Declaration of Nonsignificance dated January 7, 1998
- Exhibit No. 6 Affidavit of Posting indicating February 23, 1998, as date of posting and March 2, 1998, as the date the affidavit was received by the Department of Development and Environmental Services
- Exhibit No. 7 Plat map dated August 27, 1997
- Exhibit No. 8 Land Use map 406E
- Exhibit No. 9 Assessors maps
- Exhibit No. 10 Level Two Drainage Analysis dated November 13, 1997
- Exhibit No. 11 Conceptual Storm Drainage Plan dated November 14, 1997
- Exhibit No. 12 P-suffix Condition Query Results, Post-Conversion Condition: SO-220

RST:daz

Attachment

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